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May 22, 2006

HAND DELIVER

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station
Boston, Massachusetts 02110

Re: The Berkshire Gas Company - D.T.E. 06-27

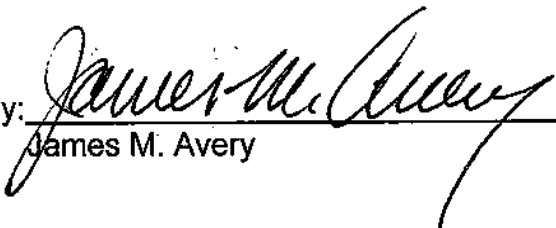
Dear Secretary Cottrell:

In connection with the above-captioned proceeding, enclosed please find The Berkshire Gas Company's Supplemental Motion for Protective Treatment of Confidential Information. This Motion is also being submitted electronically.

Thank you for your consideration.

Very truly yours,

BROWN RUDNICK BERLACK ISRAELS LLP

By: 
James M. Avery

JMA/cdw
Enclosure

cc: John J. Keene, Jr., Esq., Hearing Officer (w/4 enc via hand delivery)
Rebecca S. Hanson, Esq., Assistant General Counsel (w/enc via electronic mail)
Andreas Thanos, Assistant Director, Gas Division (w/enc via electronic mail)
Jamie Tosches, Esq., Assistant Attorney General (w/enc via hand delivery)
Karen L. Zink, President, COO and Treasurer (w/enc)
Jennifer M. Boucher, Manager - Regulatory Economics (w/enc)

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COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

THE BERKSHIRE GAS COMPANY

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D.T.E. 06-27

**SUPPLEMENTAL MOTION FOR PROTECTIVE TREATMENT
OF CONFIDENTIAL INFORMATION**

Pursuant to 220 C.M.R. 1.04(5)(a), The Berkshire Gas Company ("Berkshire" or the "Company") hereby moves that the Department of Telecommunications and Energy (the "Department") grant protection from public disclosure pursuant to G.L. c. 25, §5D to certain information contained in information requests issued in this proceeding and reposes thereto relating to the terms and conditions of a Fuel Purchase Agreement dated as of March 15, 1989, as amended (the "FPA"), certain agreements underlying the term of the FPA and the existence or nature of any rights of the Company pursuant to the FPA. The Company has been authorized to indicate that certain of the Attorney General's information requests were redacted in anticipation of the Company's filing of this motion and because of the unique nature of the confidential issues in this case. These information requests and the Company's responses have been provided in the public docket in redacted form. In support of this motion, Berkshire states the following:

1. Berkshire is a gas company organized under the laws of the Commonwealth of Massachusetts and is engaged in the business of selling and distributing gas at retail in Massachusetts.

2. The Company has filed a petition seeking approval of a natural gas sales agreement between Berkshire and Coral Energy Resources, L.P. These agreements were submitted for approval by the Department pursuant to relevant Department precedent.

3. Pursuant to G.L. c. 25, §5D, the Department is authorized to “protect from public disclosure, trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings” of the Department. G.L. c. 25, §5D establishes a three-part test for determining whether, and to what extent, information submitted by a party in the course of a Department proceeding may be protected from public disclosure. First, the information for which protective treatment is sought must constitute “trade secrets, [or] confidential, competitively sensitive or other proprietary information.” Second, the party seeking protective treatment must overcome the statutory presumption in G.L. c. 66, §10 that all such information is public information by “proving” the need for non-disclosure. Third, even where a party establishes the need for protective treatment, the Department may protect only so much of that information as is deemed necessary to meet the established need and may also limit the term or length of time such protection will be in effect. G.L. c. 25, §5D; The Berkshire Gas Company, D.T.E. 01-41, p. 16 (2001). The Department has developed several considerations that it has deemed appropriate with respect to the public interest assessment, including the interests at stake, the likely harm that could result from disclosure of such information and the public policy implications of such disclosure. See The Berkshire Gas Company, D.P.U. 93-187/188/189/190 (Interlocutory Order dated January 19, 1994); Essex County Gas Company, D.P.U. 96-105 (1996); The Berkshire

Gas Company, D.T.E. 99-81 (1999) (Confidential treatment accorded to price and other terms of an asset management agreement); Boston Gas Company, D.T.E. 99-76 (1999) (Confidential treatment accorded to price and other terms of an asset management agreement).

4. Berkshire seeks protective treatment for materials relating to the interpretation of the FPA and the implications of the terms and conditions of the FPA the public disclosure of which could affect the rights and interests of the Company. Specifically, Berkshire seeks protection for the information requests listed in Schedule A.¹

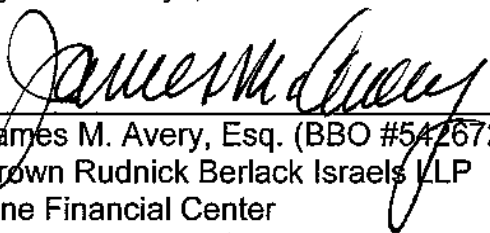
5. Berkshire submits that it would be highly inappropriate if this confidential and proprietary information was made available to other parties, including the other party to the FPA. Public disclosure may also place Berkshire at a bargaining disadvantage in future negotiations with the party to the FPA or the operator of the underlying cogeneration plant or may prejudice Berkshire's ability to pursue a claim pursuant to the FPA. Accordingly, public exposure of these information requests and responses could adversely affect the Company through the inability to obtain advantageous service provisions or pursue claims in the future that could possibly result in higher prices for gas service to the Company's customers. The Department has recognized these same concerns in finding that "protective treatment of such competitively sensitive, confidential and proprietary information as contractual pricing provisions, compensation benchmarks and bids are appropriate because disclosure

¹ Berkshire notes that its responses to Information Requests DTE 1-4, AG 1-4 and AG 1-11 were redacted to protect price confidential information. For all the reasons stated in the Motion for Protective Treatment of Confidential Information dated February 28, 2006, the Company respectfully requests protected treatment for these materials through the term of the Sales Agreement with Coral.

may affect future negotiations by either constraining the willingness of entities to offer better or more innovative terms for gas procurement than are currently proposed, or limit the future bargaining ability of the Company.” Berkshire Gas, D.T.E. 01-41, p. 17. Berkshire respectfully requests that these materials be granted protected treatment for at least four years.

Accordingly for the reasons stated herein, Berkshire respectfully requests that the Department grant this motion for protective treatment of confidential information with respect to the specified materials.

Respectfully submitted,
THE BERKSHIRE GAS COMPANY
By its attorneys,



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Dated: May 22, 2006

SCHEDULE A

Protection for the Information Requests

DTE 1-13 Response and Attachment DTE-1-13(b)

AG 1-18 Supplemental Response

AG 2-3

AG 2-4

AG 2-10 Question and Response

AG 2-11 Question and Response

AG 2-12 Question and Response

AG 2-13 Question and Response

AG 2-14 Question and Response

AG 2-15 Question and Response

AG 2-16 Question and Response

AG 2-17 Question and Response

AG 2-18 Question and Response

AG 2-19 Question and Response

AG 2-21 Question and Response

AG 2-22 Question and Response

AG 2-23(b) Attachment

AG 2-36 Question and Response